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Filed : August 24, 1999

**AMENDMENTS TO SPECIFICATION ADDRESS NOTED INFORMALITIES**

The foregoing amendments to the specification correct the informalities noted by the Examiner. Specifically, the reference numeral 122 has been removed in two places as the reference numeral refers to the flanges of which the rolled edges simply form a portion. The amendments do not add new matter and overcome the Examiner's objection. Entry of the amendments is respectfully requested.

With respect to the deletion at page 15, the subject matter being deleted was an obvious typographical error and was not related to the subject matter of the present application.

With respect to the apparent inconsistency in the usage of reference numeral 78, the reference numeral actually is used consistently in both referenced positions. In the arrangement of Figure 5, which is being discussed on page 9, at line 6, reference numeral 78 refers to the tie down surfaces that form a surface of the rails/ribs 72 of the track. On page 12, at line 4, reference numeral 78 refers to "another surface" of the track and not to the rails/ribs 72.

With respect to the apparent inconsistency in the usage of reference numeral 140, the two terms are not inconsistent. Rather, the term spacer is a generic term while the term paddle is a species of the types of spacers that can be used. This is made clear by the use of "For example" that precedes the use of the term "paddle." Accordingly, the usage of both terms with the same reference numeral is not inconsistent.

Reconsideration is respectfully requested.

**CLAIM 24 WAS ENABLED WHEN FILED**

Claim 24 has been rejected as not enabled by the disclosure as filed. To clarify the subject matter was both disclosed and enabled, the specification has been amended to contain the exact language of the claim. This language clearly discloses to one of ordinary skill in the art that the spacer block (i.e., the paddle 140) can be used to space tracks laterally. For instance, the tracks can be stably positioned between dividers by placing the dividers in contact with opposing edges of the spacer block that is positioned on the track similar to the paddle 140 shown in Figure 3. In arrangements in which each of the tracks is spaced laterally from the two adjoining tracks by a spacer block, the separation between the tracks is maintained, at least in part, by the spacer blocks.

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Changing the width of the spacer blocks would change the widths of merchandise that could be accommodated on the associated track.

In view of the amendment to the specification to include the subject matter from Claim 24 (which is not new matter because it was contained in an originally filed claim), the specification would have enabled one of ordinary skill in the art how to stably increase or decrease the separation of the tracks or tracks and dividers to accommodate merchandise of different widths without undue experimentation. Reconsideration is respectfully requested.

**CLAIMS 3, 8, 10, 12, 17, 18, 23, 24 AND 26 ARE DEFINITE**

Claims 3, 8, 10, 12, 17, 18, 23, 24, and 26 have been rejected under 35 U.S.C. 112, paragraph 2, as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

With respect to Claim 3, the claim has been amended to clarify the structural relationship between the spacer and the pusher blocks.

With respect to Claim 8, Claim 7 never recited that the track and dividers must be integrally formed. Rather, Claim 7 simply recites the two components and not whether the two are separate components and integrally formed components. Thus, Claim 8 adds the limitation of integral forming instead of removing a previously recited limitation.

With respect to Claim 10, the claim has been amended to recite the illustrated arrangement (i.e., the races are not segmented). Applicant has disclosed segmented races but not illustrated segmented races. Thus, Claim 10 further defines that claim it depends from by reciting non-segmented races which provides that the claim from which it depends covers both segmented and non-segmented races.

With respect to Claim 12, because Claim 7 is generic to the two illustrated arrangements (i.e., the spring riveted to the track and the spring attached to the frame with the end clip), dependent Claim 12 recites one of the two arrangements and Claim 11 recites the other. Thus, different embodiments are not being mixed in Claim 12.

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With respect to Claims 17, Applicant has used an alternative expression, which is proper under the current M.P.E.P. Applicant clearly intends to include both permanent and semi-permanent fasteners within the scope of the claim and the claim simply is not indefinite.

With respect to Claim 18, Applicant disagrees that the various structures are not from an art-recognized grouping. Dividers, tracks and integrated dividers and tracks all comprise members that extend from front to rear in display constructions and that are assembled in various manners to form such display constructions. Applicant has changed the "or" and - - and - - and submits that Claim 18 is a proper Markush group.

With respect to Claim 23, the claim has been amended to clarify the structural relationship between the spacer and the pusher blocks.

With respect to Claim 24, the claim has been amended to state that the spacer block is adapted to optionally be used to secure the track into a lateral position such that the spacer block can be used to vary the separation of the tracks or the tracks and the dividers. Depending upon the sizing of the spacer block, the lateral spacing between dividers or tracks can be varied to accommodate merchandise of different widths. The use of the word optionally does not render the claim indefinite due to its usage: optionally used to secure. Thus, the spacer blocks can be used to space tracks and dividers.

With respect to Claim 26, the claim could not be clearer. The claim recites that the divider has an upside-down T-shape or L-shape in cross-section. Thus, the divider can have one of the two shapes, both of which are illustrated in Figure 1 (i.e., the divider with the reference numeral disposed above it is a "T" and the divider with the reference numeral disposed below it is an "L").

Rejected Claims 34 and 35 have been cancelled and replaced by new claims. The new claims clarify the language and broaden the claims.

**JOHNSON ET AL. DOES NOT ANTICIPATE CLAIMS 1, 2 AND 4-6**

Claims 1, 2 and 4-6 have been rejected as anticipated by Johnson et al. Applicant disagrees. If even a single limitation of a claim was not disclosed by the applied reference, that claim is not anticipated. Such is the case here.

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Johnson et al. disclosed a telescoping track arrangement on which a spring biased moveable plate travels. The telescoping track was formed by two base sections: a forward section 32 and a rearward section 26. The rearward section slide into a pair of channels 42 formed within the forward section. Both of the sections contain a slot 28, 22 in which the moveable plate member 12 translated. Overhanging edges 54a, 54b and underlying extensions 56a, 56b clip the moveable plate member 12 to the track. As best shown in Figure 3, the overhanging edges 54a, 54b contact, at best, two surfaces of the track while the underlying extensions 56a, 56b contact, at best, only a single surface of the track.

Claim 1 recites, among other limitations, a track with a pair of raised rails, each rail having two generally T-shaped ridges, a pusher block with two sets of opposing flanges, wherein each set of the two sets of opposing flanges attaches to one of the rails at more than the top and outside surface of the rail, whereby each rail is captured between each corresponding set of opposing flanges. This is different from the disclosed arrangement of Johnson et al. in several respects. For instance, the track of Johnson et al. did not have a pair of raised rails that both had T-shaped ridges. In addition, the flanges in Johnson et al. did not capture each of the pair of rails between a set of opposing flanges that attached to the captured rail at more than the top and outside surfaces of the rail. For at least these reasons, Claim 1 is not anticipated.

Claims 2 and 4-6 depend from Claim 1 and are not anticipated by Johnson et al. for at least the same reasons as Claim 1. In addition, at least some of these claims add further distinguishing features. For instance, Claim 4 recites, among other limitations, that the inside flanges are formed on a single member extending below said pusher block. In addition, Claim 5 adds that the single member comprises at least one chamfer while Claim 6 adds that the single member comprises a top and bottom chamfer. Because these limitations also were not disclosed by Johnson et al., Claims 2 and 4-6 also are not anticipated by Johnson et al.

Reconsideration is respectfully requested.

**CLAIMS 7, 9, 11, 14, 20, 22, 29 AND 36 ARE NOT ANTICIPATED BY JACKLE, III**

Claims 7, 9, 11, 14, 20, 22, 29 and 36 have been rejected as anticipated by Jackle, III. Applicant disagrees with the characterization of Jackle, III and with the basis for the rejection.

Jackle, III disclosed a product dispensing apparatus that included a supporting tray. The tray had front and rear walls that were interconnected by side walls. A plurality of adjustable partitions extended between the front and rear walls to form side-by-side trays. A pressure feed mechanism is provided to urge products forward within the trays. As described at Col. 4, lines 40-44, the pressure feed mechanism rides on a hollow polygonal guide member or tube that is open at both ends and that has a pair of inserts received into the ends. Slots extend along the inner surface of both the front and rear walls. The inserts are not slidable within the slots but the inserts allow nearly infinite selection in the relative placement of each of the guide members and partitions.

Claim 7, the only currently pending independent claim in the group of rejected claims, recites, among other limitations, a frame having a front panel and a rear panel, the front panel and the rear panel including races to allow attachment of product tracks and dividers, one or more product tracks having raised rails extending between the front panel and the rear panel, and the product tracks and dividers being slidably attached to the front and rear races and allowing for horizontal movement of the product tracks and dividers. Any number of these limitations was not disclosed by Jackle, III. For instance, Jackle, III did not disclose product tracks having raised rails. Jackle, III also did not disclose slidably attaching the tracks and dividers to the front and rear races. Furthermore, Jackle, III did not disclose allowing for horizontal movement of the product tracks and dividers. Accordingly, Claim 7 is not anticipated by Jackle, III and reconsideration is respectfully requested.

Claims 9, 11, 14, 20, 22, and 29, also are not anticipated. These claims depend from Claim 7 and define over the applied reference for at least the same reasons at Claim 7. In addition, at least some of these claims recite further patentable distinctions. For instance, Claim 20 recites that the clips are slidable in the races while Col. 6, lines 23-29 of Jackle, III specifically state that the Jackle, III device was constructed to "prevent any transverse shifting of the inserts within the slot means." For at least these reasons, Claims 9, 11, 14, 20, 22, and 29 also are not anticipated and reconsideration is respectfully requested.

Claim 36 is independent but also recites, among other limitations, three tracks slidably engaged by first and second guides. As no sliding was accommodated by Jackle, III, Claims 36 also cannot be anticipated and reconsideration is respectfully requested.

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**CLAIMS 1, 2, 4-14, 20-22, 26, 29-32 AND 36 ARE PATENTABLE OVER HAWKINSON/JACKLE, III**

Claims 1, 2, 4-14, 20-22, 26, 29, 30-32 and 36 have been rejected as unpatentable over Hawkinson in view of Jackle, III. While Claims 33-35 also were rejected, these claim were cancelled to better focus the claims and have been replaced with new claims that more clearly claim the same feature of the present invention. With respect to the balance of the rejected claims, Applicant submits that a *prima facie* case of obviousness has not been established.

A *prima facie* case of obviousness requires, among other components, that the references, when properly combined, teach or suggest every limitation of the rejected claim. If a single limitation would not have been taught or suggested by the references, when combined, then the claim is not *prima facie* obvious. Accordingly, for the sake of the present argument, Applicant will assume that the references are properly combinable but is not admitting that such is the case.

Hawkinson, not yet discussed in the context of this Office Action, disclosed a product supporting and feeding system. The system comprised a plurality of tracks that could be linked side-by-side or that could be spaced, depending upon the application. The tracks extended from a front stop/connector that was secured to the front ends of the tracks. The tracks were not secured to anything in the rear. Thus, Hawkinson suffered from one of the problems the present invention was designed to correct. As discussed at Col. 4, lines 37-42, the front ends of the tracks contained plates that were tightly received within a set of lips. The fit in the lips was "caused to be snug so that the large tracks 10 [would] not slide along the front stop/connector 11 unless desired by the person assembling or mounting the track system." Thus, the desire was for the tracks to be locked in place and ease of movement was simply not the goal and was not achieved. Moreover, the tracks of Hawkinson may have had a pair of upstanding rails; however, the slider 14 only contained one set of "flanges", which were called shoes and which had a down-and-out configuration. This construction did not securely connect with the rails under twisting movement and exemplified another of the problems the present invention was designed to correct.

With respect to Claims 1, 2 and 4-6, Claim 1 is the sole independent claim in this group. Claim 1 recites, among other limitations, a track with a pair of raised rails, each rail having two generally T-shaped ridges, the combination further comprising a pusher block with two sets of

opposing flanges, wherein each set of the two sets of opposing flanges attaches to one of the rails at more than the top and outside surface of the rail, whereby each rail is captured between each corresponding set of opposing flanges. Clearly, neither reference disclosed the two sets of opposing flanges that each attach to one of the rails at more than the top and outside surface of the rail such that both rails is independently captured between a pair of flanges. Thus, at least these limitations were not taught or suggested by either combined reference alone or together. Reconsideration is respectfully requested.

Claims 2 and 4-6 depend from Claim 1 and are patentable for at least the same reasons as Claim 1. In addition, at least some of these claims recite further patentable distinctions. For instance, Claim 2 recites, among other limitations, that each rail has a tie down surface to the inside of each ridge and the opposing flanges include a set of inside flanges and a set of outside flanges, with the inside flanges extending further below the pusher block than the outside flanges. In addition, Claim 4 recites that the inside flanges are formed on a single member extending below the pusher block. Moreover, Claim 5 recites that the single member comprises at least one chamfer while Claim 6 recites that the single member comprises a top and a bottom chamfer. For at least these reasons, Claims 2 and 4-6 are patentable over the applied combination and reconsideration is respectfully requested.

With respect to Claims 7-14, 20-22, 26, 29 and 30-32, Claim 7 is the sole independent claim in this set and the balance of these claims depend from Claim 7. Claim 7 recites, among other limitations, a frame having a front panel and a rear panel, said front panel and said rear panel including races to allow attachment of product tracks and dividers, wherein said product tracks and dividers are slidably attached to said front and rear races and allow for horizontal movement of said product tracks and dividers. Neither reference teaches or suggests such slidable attachment to allow horizontal movement of the tracks and dividers. As discussed above, Jackle, III taught fixing the components together to avoid such sliding. Similarly, the teaching of Hawkinson is a non-slidable connection. For instance, in the Summary of the Invention, Hawkinson teaches at Col. 2, lines 8-15, that the tracks, once slid together to form a group unit, are secured by the elongate front stop/connector, which "performs various functions including preventing the track assemblies from sliding relative to each other during mounting on